

### **53A-17a-103. Definitions.**

As used in this chapter:

(1) "Basic state-supported school program" or "basic program" means public education programs for kindergarten, elementary, and secondary school students that are operated and maintained for the amount derived by multiplying the number of weighted pupil units for each district by \$2,182, except as otherwise provided in this chapter.

(2) "Certified revenue levy" means a property tax levy that provides an amount of ad valorem property tax revenue equal to the sum of:

(a) the amount of property tax revenue to be generated statewide in the previous year from imposing a minimum basic tax rate, as specified in Subsection **53A-17a-135(1)(a)**; and

(b) the product of:

(i) new growth, as defined in Section **59-2-924** and rules of the State Tax Commission; and

(ii) the minimum basic tax rate certified by the State Tax Commission for the previous year.

(3) "Leeway program" or "leeway" means a state-supported voted leeway program or board leeway program authorized under Section **53A-17a-133** or **53A-17a-134**.

(4) "Pupil in average daily membership (ADM)" means a full-day equivalent pupil.

(5)(a) "State-supported minimum school program" or "minimum school program" means public school programs for kindergarten, elementary, and secondary schools as described in this Subsection (5).

(b) The minimum school program established in the districts shall include the equivalent of a school term of nine months as determined by the State Board of Education.

(c) (i) The board shall establish the number of days or equivalent instructional hours that school is held for an academic school year.

(ii) Education, enhanced by utilization of technologically enriched delivery systems, when approved by local school boards, shall receive full support by the State Board of Education as it pertains to fulfilling the attendance requirements, excluding time spent viewing commercial advertising.

(d) The program includes the total of the following annual costs:

(i) the cost of a basic state-supported school program; and

(ii) other amounts appropriated in this chapter in addition to the basic program.

(6) "Weighted pupil unit or units or WPU or WPUs" means the unit of measure of factors that is computed in accordance with this chapter for the purpose of determining the costs of a program on a uniform basis for each district.

Amended by Chapter 257, 2004 General Session

**53A-17a-135. Minimum basic tax rate -- Certified revenue levy.**

(1) (a) In order to qualify for receipt of the state contribution toward the basic program and as its contribution toward its costs of the basic program, each school district shall impose a minimum basic tax rate per dollar of taxable value that generates \$217,590,703 in revenues statewide.

(b) The preliminary estimate for the 2004-05 minimum basic tax rate is .001754.

(c) The State Tax Commission shall certify on or before June 22 the rate that generates \$217,590,703 in revenues statewide.

(d) If the minimum basic tax rate exceeds the certified revenue levy as defined in Section **53A-17a-103**, the state is subject to the notice requirements of Section **59-2-926**.

(2) (a) The state shall contribute to each district toward the cost of the basic program in the district that portion which exceeds the proceeds of the levy authorized under Subsection (1).

(b) In accord with the state strategic plan for public education and to fulfill its responsibility for the development and implementation of that plan, the Legislature instructs the State Board of Education, the governor, and the Office of Legislative Fiscal Analyst in each of the coming five years to develop budgets that will fully fund student enrollment growth.

(3) (a) If the proceeds of the levy authorized under Subsection (1) equal or exceed the cost of the basic program in a school district, no state contribution shall be made to the basic program.

(b) The proceeds of the levy authorized under Subsection (1) which exceed the cost of the basic program shall be paid into the Uniform School Fund as provided by law.

Amended by Chapter 257, 2004 General Session

**53A-2-103. Transfer of property to new school district -- Rights and obligations of new school board -- Outstanding indebtedness -- Special tax.**

(1) On July 1 following the approval of the creation of a new school district under Section **53A-2-102**, the local school boards of the former districts shall convey and deliver all school property to the local school board of the new district. Title vests in the new board. All rights, claims, and causes of action to or for the property, for the use or the income from the property, for conversion, disposition, or withholding of the property, or for any damage or injury to the property vest at once in the new board.

(2) The new board may bring and maintain actions to recover, protect, and preserve the property and rights of the district schools and to enforce contracts.

(3) The new board shall assume and be liable for all outstanding debts and obligations of each of the former school districts.

(4) All of the bonded indebtedness, outstanding debts, and obligations of a former district, which cannot be reasonably paid from the assets of the former district, shall be paid by a special tax levied by the new board as needed. The tax shall be levied upon the property within the former district which was liable for the indebtedness at the time of consolidation. If bonds are approved in the new district under Section **53A-18-102**, the special tax shall be discontinued and the bonded indebtedness paid as any other bonded indebtedness of the new district.

(5) Bonded indebtedness of a former district which has been refunded shall be paid in the same manner as that which the new district assumes under Section **53A-18-101**.

(6) State funds received by the new district under Section **53A-21-103** may be applied toward the payment of outstanding bonded indebtedness of a former district in the same proportion as the bonded indebtedness of the territory within the former district bears to the total bonded indebtedness of the districts combined.

Amended by Chapter 301, 2002 General Session

**53A-2-104. Transfer of a portion of a school district -- Board resolution -- Board petition -- Elector petition -- Transfer election.**

(1) Part of a school district may be transferred to another district in one of the following ways:

(a) presentation to the county legislative body of each of the affected counties of a resolution requesting the transfer, approved by at least four-fifths of the members of the local board of education of each affected school district;

(b) presentation to the county legislative body of each affected county of a petition requesting that the electors vote on the transfer, signed by a majority of the members of the local school board of each affected school district; or

(c) presentation to the county legislative body of each affected county of a petition requesting that the electors vote on the transfer, signed by 15% of the qualified electors in each of the affected school districts within that county.

(2) (a) If an annexation of property by a city would result in its residents being served by more than one school district, then the presidents of the affected local school boards shall meet within 60 days prior to the effective date of the annexation to determine whether it would be advisable to adjust school district boundaries to permit all residents of the expanded city to be served by a single school district.

(b) Upon conclusion of the meeting, the local school board presidents shall prepare a recommendation for presentation to their respective boards as soon as reasonably possible.

(c) The boards may then initiate realignment proceedings under Subsection (1)(a) or (b).

(d) If a local board rejects realignment under Subsection (1)(a) or (b), the other board may initiate the following procedures by majority vote within 60 days of the vote rejecting realignment:

(i) (A) within 30 days after a vote to initiate these procedures, each local board shall appoint one member to a boundary review committee;

(B) if the local board becomes deadlocked in selecting the appointee under Subsection (d)(i)(A), the board's chair shall make the appointment or serve as the appointee to the review committee.

(ii) The two local board-appointed members of the committee shall meet and appoint a third member of the committee.

(iii) If the two local board-appointed members are unable to agree on the appointment of a third member within 30 days after both are appointed, the State Superintendent of Public Instruction shall appoint the third member.

(iv) The committee shall meet as necessary to prepare recommendations concerning resolution of the realignment issue, and shall submit the recommendations to the affected local boards within six months after the appointment of the third member of the committee.

(v) If a majority of the members of each local board accepts the recommendation of the committee, or accepts the recommendation after amendment by the boards, then the accepted recommendation shall be implemented.

(vi) If the committee fails to submit its recommendation within the time allotted, or if one local board rejects the recommendation, the affected boards may agree to extend the time for the committee to prepare an acceptable recommendation or either board may request the State Board of Education to resolve the question.

(vii) If the committee has submitted a recommendation which the state board finds to be reasonably supported by the evidence, the state board shall adopt the committee's recommendation.

(viii) The decision of the state board is final.

(3) (a) The electors of each affected district shall vote on the transfer requested under Subsection (1)(b) or (c) at an election called for that purpose, which may be the next general election.

(b) The election shall be conducted and the returns canvassed as provided by election law.

(c) A transfer is effected only if a majority of votes cast by the electors in both the proposed transferor district and in the proposed transferee district are in favor of the transfer.

Amended by Chapter 294, 1998 General Session

### **53A-2-105. Transfer of school property -- Indebtedness on transferred property.**

(1) If a transfer of a portion of one school district to another school district is approved under Section **53A-2-104**, the state superintendent and the superintendents and presidents of the boards of education of each of the affected school districts shall determine the

basis for a transfer of all school property reasonably and fairly allocable to that portion being transferred.

(2) (a) Title to property transferred vests in the transferee board of education.

(b) The transfer of a school building that is in operation at the time of determination shall be made at the close of a fiscal year.

(c) The transfer of all other school property shall be made five days after approval of the transfer of territory under Section **53A-2-104**.

(3) (a) The individuals referred to in Subsection (1) shall determine the portion of bonded indebtedness and other indebtedness of the transferor board for which the transferred property remains subject to the levy of taxes to pay a proportionate share of the outstanding indebtedness of the transferor board.

(b) This is done by:

(i) determining the amount of the outstanding bonded indebtedness and other indebtedness of the transferor board of education;

(ii) determining the total taxable value of the property of the transferor district and the taxable value of the property to be transferred; and

(iii) calculating the portion of the indebtedness of the transferor board for which the transferred portion retains liability.

(4) (a) The agreement reflecting these determinations takes effect upon being filed with the State Board of Education.

(b) The transferred property remains subject to the levy of taxes to pay a proportionate share of the outstanding indebtedness of the transferor school board.

(c) The transferee school board may assume the obligation to pay the proportionate share of the transferor school board's indebtedness that has been determined under Subsection (3) to be the obligation of the transferred portion by the approval of a resolution by a majority of the qualified electors of the transferee school district at an election called and held for that purpose under Title 11, Chapter 14, Utah Municipal Bond Act.

(5) If the transferee school district assumes the obligation to pay this proportionate share of the transferor school board's indebtedness, the transferee school board shall levy a tax in the whole of the transferee district, including the transferred portion, sufficient to pay the assumed indebtedness, and shall turn over the proceeds of the tax to the business administrator of the transferor board.

(6) If the transferee school board does not assume this obligation, the transferee school board shall levy a tax on the transferred territory sufficient to pay the proportionate share of the indebtedness determined under this section, and shall turn over the proceeds of the tax to the business administrator of the transferor board.

(7) For the purposes of school districts affected by repealed laws governing the annexation of an unincorporated area of a school district by a city which included what was formerly known as a city school district, transitions of unincorporated areas and

property from the transferor district to the transferee district in progress on the effective date of this act shall revert to the boundaries and ownership prior to the initiation of annexation and may then proceed under this section and Section **53A-2-104**.

Amended by Chapter 294, 1998 General Session

**53A-2-116. Rights of transferred employees -- Salary during first year -- Leave and tenure benefits.**

(1) If a school employee is transferred from one district to another because of district consolidation or restructuring, the employee's salary may not be less, during the first year after the transfer, than it would have been had the transfer not taken place.

(2) The district to which an employee is transferred under Subsection (1) shall credit the employee with all accumulated leave and tenure recognized by the district from which the employee was transferred.

(3) If the district to which an employee is transferred does not have a leave benefit which reasonably corresponds to one the employee seeks to transfer, that district shall compensate the employee for the benefit on the same basis as would have been done had the employee retired.

Enacted by Chapter 49, 1988 General Session

**53A-2-117. Definitions.**

As used in Sections **53A-2-117** through **53A-2-121**:

(1) "Existing district" means a school district from which a new district is created.

(2) "New district" means a school district created under Section **53A-2-118**.

Enacted by Chapter 234, 2003 General Session

**53A-2-118. Creation of new school district by county legislative body -- Initiation of process -- Procedures to be followed.**

(1) A county legislative body may create a new school district from an existing school district within the geographical boundaries of the county.

(2) (a) The process may be initiated:

(i) through a citizens' initiative petition; or

(ii) at the request of the board of the existing district or districts to be affected by the creation of the new district.

(b) A petition submitted under Subsection (2)(a)(i) must be signed by qualified electors residing within the geographical boundaries of the proposed new school district equal in number to at least 15% of the number of electors in the area who voted for the office of governor at the last regular general election.

(c) The process may only be initiated once during any four-year period.

(d) A new district may not be formed if the student population of the proposed new district is less than 5,000 or the existing district's student population would be less than 5,000 because of the creation of the new school district.

(e) If a county legislative body receives a request or petition to create a new district on or before December 1:

(i) the county legislative body shall appoint an ad hoc advisory committee, as provided by Subsection (3), on or before January 1;

(ii) the ad hoc advisory committee shall submit its report and recommendations to the county legislative body, as provided by Subsection (3), on or before July 1; and

(iii) if the county legislative body approves a proposal to create a new district, the proposal shall be submitted to the county clerk to be voted on by the electors of the existing district at the regular general or municipal general election held in November.

(3) (a) The county legislative body shall appoint an ad hoc advisory committee to review and make recommendations on a request for the creation of a new school district submitted under Subsection (2)(a).

(b) The advisory committee shall:

(i) seek input from:

(A) those requesting the creation of the new school district;

(B) the school board and school personnel of the existing school district;

(C) those citizens residing within the geographical boundaries of the existing school district;

(D) the State Board of Education; and

(E) other interested parties;

(ii) review data and gather information on at least:

(A) the financial viability of the proposed new school district;

(B) the proposal's financial impact on the existing school district;

(C) the exact placement of school district boundaries; and

(D) the positive and negative effects of creating a new school district and whether the positive effects outweigh the negative if a new school district were to be created; and

(iii) make a report to the county legislative body in a public meeting on the committee's activities, together with a recommendation on whether to create a new school district.

(4) (a) The county legislative body shall provide for a 45-day public comment period on

the report and recommendation to begin on the day the report is given under Subsection (3)(b)(iii).

(b) Within 14 days after the end of the comment period, the county legislative body shall vote on the creation of the proposed new school district.

(c) The proposal is approved if a majority of the members of the county legislative body votes in favor of the proposal.

(d) If the proposal is approved, the county legislative body shall submit the proposal to the county clerk to be voted on:

(i) by the electors of the existing school district;

(ii) in accordance with Title 20A, Election Code; and

(iii) at the next regular general election or municipal general election, whichever is first.

(e) Creation of the new school district shall occur if a majority of the electors within both the proposed school district and the remaining school district voting on the proposal vote in favor of the creation of the new district.

(f) (i) The county legislative body shall, within 45 days of the creation of the new school district, file a written notice of the action with the State Tax Commission.

(ii) The notice shall be accompanied by a map showing the boundaries of the affected school districts, prepared and certified by a local surveyor.

(5) If a proposal to create a new district is approved by the electors, the existing district's documented costs to study and implement the proposal shall be reimbursed by the new district.

Enacted by Chapter 234, 2003 General Session

### **53A-2-119. Reapportionment -- Local school board membership.**

(1) Upon the creation of a new school district, the county legislative body shall reapportion the affected school districts pursuant to Section **20A-14-201**.

(2) (a) Except as provided in Subsection (2)(b), school board membership in the affected school districts shall be determined under Title 20A, Chapter 14, Part 2, Nomination and Election of Members of Local Boards of Education.

(b) (i) If, as a result of a reapportionment conducted following the creation of a new school district, a local school board district is created in which no board member whose term extends beyond reapportionment resides, the first board member for the local school board district shall be elected at the next regular general election or municipal general election, whichever occurs first, after the election at which the creation of the new school district is approved.

(ii) (A) The initial term of office of a board member elected under Subsection (2)(b)(i) shall be three years, except as provided in Subsection (2)(b)(ii)(B).



(B) If more than one position on a local school board needs to be filled pursuant to Subsection (2)(b)(i), the initial term of the board members elected shall be staggered. The county legislative body shall determine by lot which of the reapportioned local school board districts will elect members to three-year terms and which will elect members to one-year terms.

Enacted by Chapter 234, 2003 General Session

**53A-2-120. Transfer of school property to new school district.**

(1) (a) On the July 1 following the school board elections for the new and existing districts as provided in Section **53A-1-119**, the board of the existing district shall convey and deliver to the board of the new district all school property which the new district is entitled to receive.

(b) Any disagreements as to the disposition of school property shall be resolved by the county legislative body.

(2) Title vests in the new school board, including all rights, claims, and causes of action to or for the property, for the use or the income from the property, for conversion, disposition, or withholding of the property, or for any damage or injury to the property.

(3) The new school board may bring and maintain actions to recover, protect, and preserve the property and rights of the district's schools and to enforce contracts.

(4) The intangible property of the existing school district shall be prorated between it and the new district on the same basis used to determine the new district's proportionate share of the existing district's indebtedness under Section **53A-2-121**.

Enacted by Chapter 234, 2003 General Session

**53A-2-121. Indebtedness on property within new school district.**

(1) (a) The boards of the existing and new districts shall determine the portion of the existing district's bonded indebtedness and other indebtedness for which the property within the new district remains subject to the levy of taxes to pay a proportionate share of the existing district's outstanding indebtedness.

(b) The proportionate share of the existing district's outstanding indebtedness for which property within the new district remains subject to the levy of taxes shall be calculated by determining the proportion that the total assessed valuation of the property within the new district bears to the total assessed valuation of the existing district in the year immediately preceding the date the new district was created.

(c) The agreement reflecting the determinations made under this Subsection (1) shall take effect upon being filed with the county legislative body and the State Board of Education.

(2) The board of the new district shall levy a tax on property within the new district sufficient to pay the proportionate share of the indebtedness determined under this

section, and shall turn over the proceeds of the tax to the business administrator of the existing district.

(3) The boards of the existing and new districts shall determine by mutual agreement the disposition of bonds approved but not issued by the existing district before the creation of the new district based primarily on the representation made to the voters at the time of the bond election.

Enacted by Chapter 234, 2003 General Session

**53A-2-122. Rights of employees transferring to a new district.**

An employee of a school district from which a new district is created who becomes an employee of the new district shall receive the same considerations as are provided to transferred employees by Section **53A-2-116** and shall retain the same status as a career or provisional employee with accrued seniority.

Enacted by Chapter 234, 2003 General Session